

Insurance and Banking Committee 1

Amendment No. 1 to HB0304

**Travis
Signature of Sponsor**

AMEND Senate Bill No. 1192

House Bill No. 304*

by deleting subdivision (20) in Section 1 and substituting instead the following:

(20)

(A) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, a life settlement investment or any fractional or pooled interest in a life insurance policy or life settlement investment, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing;

(B) For the purposes of this subdivision (20), "life settlement investment" means the contractual right to receive any portion of the death benefit or ownership of a life insurance policy or certificate, for consideration that is less than the expected death benefit of the life insurance policy or certificate. "Life settlement investment" also includes written agreements commonly referred to as viatical settlement investments.

"Life settlement investment" does not include:

(i) A viatical settlement contract, between a viator and a viatical settlement provider, as such terms are defined in § 56-50-102;

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(ii) Any transfer of ownership or beneficial interest in a life insurance policy from a viatical settlement provider to another viatical settlement provider, as defined in § 56-50-102, or to any legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;

(iii) Any agreement for the original issuance of an insurance policy or certificate of insurance from the insured or policy owner to any provider of a life insurance policy;

(iv) An assignment, transfer, sale, devise, or bequest of a death benefit under or ownership of either an insurance policy or certificate of insurance by the original owner or a person who has an insurable interest in the insured;

(v) An assignment of an insurance policy or certificate of insurance to any bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan; or

(vi) The exercise of accelerated benefits pursuant to a life insurance policy; and

(C) "Security" does not include:

(i) Currency;

(ii) A check, whether or not certified; draft; bill of exchange; or bank letter of credit;

(iii) A note or other evidence of indebtedness issued in a mercantile or consumer, rather than an investment, transaction;

(iv) An interest in a deposit account with a bank or a savings and loan association; or

(v) An insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period;

AND FURTHER AMEND by deleting subdivision (a)(7) in Section 3 and substituting instead the following:

(7) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association; provided, that at least ten (10) days prior to any sale of a security pursuant to an exemption under this subdivision (a)(7), such person has filed with the commissioner all information as the commissioner may by rule require and paid a fee of one hundred dollars (\$100), and that the commissioner does not by order disallow the exemption under this subdivision (a)(7) and no sales are made until expiration of that ten (10) days; provided further, that the commissioner may restrict the availability of this exemption to any class or subclass of securities of such issuer;

AND FURTHER AMEND by deleting subdivision (a)(12)(B) in Section 6 and substituting instead the following:

(B) At least ten (10) days prior to any sale of a security in this state pursuant to an exemption under this subdivision (a)(12), such bank holding company or savings and loan holding company has filed with the commissioner all information as the commissioner may by rule require and paid a fee of one hundred dollars (\$100), and the commissioner does not by order disallow the exemption under this subdivision (a)(12) and no sales are made until expiration of that ten (10) days. The commissioner may

restrict the availability of the exemption under this subdivision (a)(12) to any class or subclass of securities of such issuer; and

AND FURTHER AMEND by deleting subsection (a) in Section 48 and substituting instead the following:

(a)

(1) If a qualified individual reasonably believes that financial exploitation of a designated adult has occurred, has been attempted or may have been attempted, or is being attempted, the qualified individual, in cooperation with the qualified individual's broker-dealer or investment adviser, may notify the commissioner.

(2) Subsequent to notifying the commissioner, a qualified individual may, to the extent permitted under federal law, notify any of the following concerning the qualified individual's belief that financial exploitation may have occurred:

(A) A relative of the designated adult as defined in § 71-6-102(12);

(B) A legal guardian of the designated adult;

(C) A trustee, co-trustee, or successor trustee of the account of the designated adult;

(D) An agent under a power of attorney of the designated adult; or

(E) Any other person permitted under existing laws, rules, regulations, or customer agreement.

AND FURTHER AMEND by deleting subdivision (b)(1)(B)(iii) in Section 48 and substituting instead the following:

(iii) Continues its internal review of the suspected or attempted financial exploitation of the designated adult, as necessary, and reports any additional results to the commissioner within seven (7) business days after the requested disbursement.

AND FURTHER AMEND by deleting subdivision (b)(3)(B) in Section 48 and substituting instead the following:

(B) Fifteen (15) business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds, unless the commissioner requests that the broker-dealer or investment adviser extends the delay, in which case the delay shall expire no more than twenty-five (25) business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds unless otherwise terminated or extended by the commissioner or an order of a court of competent jurisdiction.